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November 9, 2000

Manager
Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention: Docket No. 2000-57

Re: Comments on Proposed Rulemaking Concerning Mutual Savings Associations, Mutual Holding Company Reorganizations, and Conversions from Mutual to Stock Form.

Dear Sir or Madam:

We recognize the substantial effort the staff has put into preparing these proposed regulations. Simply putting the conversion regulations into plain language was a monumental task. We hope that when the final regulations are issued that the mutual holding company regulations also will have been written in plain language.

Our company has been involved in conversions (and mutual holding company transactions) since 1975. We have worked with more than 550 institutions in preparing their appraisal and/or marketing their stock. We have always been focused on maintaining the integrity of the conversion and mutual holding company reorganization process. The OTS and its predecessor, the FHLBB, historically have done an admirable job in creating an impartial framework within which institutions can change their form of organizational structure and raise capital. While we have not always agreed with the changes to the process, we have respected the impartiality the OTS demonstrated toward charter choice and the process. Historically, we have supported proposals that advance the process while maintaining the integrity and impartiality of the process and do not operate to the detriment of investors.

We support the removal of restrictions on repurchases of shares after completion of the first year following conversion. This is crucial to an institution's ability to manage its level of capital and facilitate achieving a reasonable return on investment ("ROI"). Stock repurchases also help create a market for the stock and support its price in the market. This will put the thrift industry on par with other industries.

We support allowing acceleration of the vesting of stock benefits upon a change of control of an institution. If stock benefit plans will be voted upon during the stock offering, we would also support implementing the stock benefit plans at that time, and granting the benefits at that time. This was permissible until 1994. Investors want management to prosper so that management will be more receptive to taking steps designed to enhance shareholder value rather than simply acting in their own interest.

We support allowing stock option plans to include dividend equivalent rights. This will help align the interests of management with those of investors.

We support the codification providing subscription rights for demand account holders. This eliminates an area of confusion and contention.

Allowing dividend waivers by a mutual holding company (MHC) can be beneficial. We are concerned however, that certain provisions in the proposed regulation regarding modifications to the MHC process could be abused and thus damage the integrity of the process. As such, we take no position on this provision at this time.

We are supportive, conceptually, of making MHCs more attractive, but not to the extent it creates an unlevel playing field with conversions or diminishes public confidence in the process. We can not support actions which: (i) create unfair or undue impediments to conversion; (ii) adversely impact investors in MHCs or conversions; (iii) treat MHC and conversion investors differently; or (iv) unduly favor management over investors; or (v) validate the concept of stakeholders in mutuals as set forth in the FDIC white paper proposal.

An institution should be free to choose any form of charter, which is legally permissible. Congress has determined the charter choices that are available. These choices include: mutual, mutual holding company (with or without a minority (public) offering), and stock.

It is our understanding that the role of the OTS is to insure that once an institution makes its choice as to a preferred form of charter, it operates within the bounds of that charter in a safe and sound manner. In our opinion, it would be bad public policy for a government agency to influence the charter choice by directly or indirectly favoring one form over another, or creating impediments to any of the choices.

The proposed regulation imposes much more stringent business plan requirements than currently exist. The requirements are so difficult as to discourage standard conversions in favor of MHCs. Further, the requirements might preclude the second step conversions of MHCs to stock companies, and even preclude healthy mutual institutions from undertaking an MHC with a minority offering.

We are unaware of any event that has transpired to cause the OTS to impose more stringent business plan requirements. It would appear that the OTS is attempting to safeguard someone's interest or correct some abuse, but we are unclear as to whose interest or what abuse that would be.

The conversion process, by its nature, usually results in an institution being overcapitalized. We do not believe that being overcapitalized is *per se* unsafe and unsound, or presents a risk to either the deposit insurance fund or the institution's community. Further, we do not believe that a thrift has any legal duty to its community other than not to discriminate in extending credit or making loans.

While having a high capital ratio and low ROE might result in shareholder activism, it is not unsafe or unsound.

The preamble to the proposed regulation stresses substantial concern by the OTS over the possible effects on a community when an institution converts, encounters shareholder pressure to perform, or is acquired. We are not aware of any situation where activism has adversely affected any community. To our knowledge there have been very few instances of hostile activity involving thrifts over the years. We also are not aware of any duty the OTS has to protect community interests. Such a concern could serve to validate the FDIC white paper position that made the community a stakeholder in a mutual thrift.

The proposed regulation requires that before a mutual institution can convert to stock form, the Regional Director must first determine that the institution "qualifies" to be a public (stock) thrift. There is no similar requirement in any other industry, nor does the OTS impose a similar requirement for *de novo* stock thrifts. Our analysis indicates that the standards to be met will effectively preclude most mutual thrifts from converting to stock and most MHCs from undertaking a second step conversion. Further, this is a very subjective test, the results of which will vary from case to case within a region and from region to region, and cause inequitable results.

We concur that converting thrifts should be made aware of what is involved in the conversion process, and the risks and expectations of being a publicly owned institution. However, we do not concur in the establishment of unrealistic requirements to become a public company, or requiring a business plan that is so detailed and restrictive as to be inflexible. An institution must be able to react and respond to changes without first obtaining OTS approval for deviations from its business plan.

The effect of the stringent business plan requirements will be to remove a valid form of charter choice.

CONVERSION

Business Plan

Credit and Lending Needs The regulation currently states that "the applicant must demonstrate the proposed deployment of proceeds contained in its business plan will help meet the credit and lending needs of the communities served by the applicant." The proposed regulation states that an applicant's business plan must "demonstrate that...the deployment of the conversion proceeds will substantially serve to meet credit and lending needs in your proposed market area." The difference is subtle, but there is a difference. The requirement would change from "help to meet" to "substantially serve to meet." It appears that this is a higher standard. What is the reason for the change? Have there been abuses? Did the law change? How is this new standard to be interpreted? It would also appear to be very subjective. We would urge the OTS to retain the current language.

Experience with Prior Growth, Etc. The business plan would require a demonstration that an institution has had experience with respect to prior growth, expansion, or other initiatives similar to the proposed operations and activities proposed in the business plan. While this would be beneficial, it should not be a prerequisite to approval. This should be a decision to be made by the board of directors subject to their fiduciary duties to oversee the operation of the institution. Prior experience will be a factor considered by the directors, but not the only factor.

Outside of the conversion context, this type of decision is made solely by the board of directors with OTS involvement only in a review capacity as part of an examination or supervisory action.

Conversion will certainly enable an institution to grow. However, absent a regulatory requirement to achieve a certain return on equity ("ROE") hurdle, most institutions will grow or add new types of operations only if the circumstances and opportunities present themselves. If an institution is not able to manage its level of capital through repurchases of stock and dividend payments, it could be forced to pursue a growth strategy.

Expertise of Management and Board of Directors The applicant must demonstrate that its management and board of directors have the expertise, and that their institution has adequate staffing and controls to manage the growth, new investments, etc. Again, isn't this more properly a decision to be made by the board of directors? Not every conversion involves the institution going out and initiating new and untested operations, activities, etc. Few institutions have boards of directors that will allow them to embark blindly upon new and risky ventures. However, a regulatory requirement to attain a certain level of ROE could put pressure on a board to do things they otherwise wouldn't do.

If the OTS is concerned that institutions might make bad decisions or undertake new activities, etc., it should not prohibit investment of the proceeds in investment securities or mortgage-backed securities.

It should be noted that the average mutual institution has capital of 12.07%, and following conversion will have capital of approximately 18%. This capital cushion will allow the institution to encounter and survive unforeseen problems without presenting any risk to the deposit insurance fund.

Need for New Capital The proposal will require a converting thrift to demonstrate a need for new capital to support projected operations and activities. We believe that most institutions convert for reasons other than a need for capital.

Flexibility: The stock charter is a more flexible form of organization which better positions an institution to take advantage of business opportunities and react to regulatory and economic changes.

Public Acceptance: The stock form of organization is more widely accepted and better understood.

Expansion: Stock institutions are better positioned to take advantage of growth and acquisition opportunities.

Timing: Many boards realize that within the next few years their institution will convert to stock form. They do not have a specific need for capital today. However, valuations might be at attractive levels today, i.e., low such that far less capital would be raised today than would have been raised two years ago, or might be raised in the future. A lower valuation will avoid or at least lessen the problems of being overcapitalized. If an institution already exceeds its capital requirements, shouldn't it convert at a time when it can raise the least amount of capital possible (even though it doesn't have an immediate need/use for the capital), rather than wait until it has a need for capital and risk raising far more capital than it needs? An institution should not be required to wait until it has definite plans for expansion or an acquisition before it can convert. This could present unacceptable timing issues and contingencies to the other party, not to mention prospectus disclosure problems that could jeopardize the transaction.

Ownership: Stock ownership clarifies who owns the institution and gives employees, officers, directors, customers, and the community the opportunity to be an equity owner in the institution and participate in its profits.

Loyalty: Typically, members who purchase stock in a subscription offering increase their business relations with the institution, and persons who purchase stock in the community offering begin transacting business with the institution.

Stock-Based Economic Benefits: Stock companies can provide economic benefits in the form of stock (as opposed to cash) to attract, retain, and reward key persons.

Exit Strategy: Many mutual institutions have come to the conclusion that they need to have an exit strategy. For various reasons, at some point they might need to merge into a larger institution that has the *technology* to compete, and the *products* to attract and retain customers. Many institutions feel that they have reached a point of stagnation with low growth and low margins. *Competition* from banks, thrifts, credit unions, insurance companies, etc., is making many institutions feel *irrelevant.* Many times there is a lack of *management succession* or management has grown weary of the continuous promulgation of new regulations and ever-increasing burden of *regulatory compliance.* There are several states where mutual institutions have *no* (real or practical) *merger partners.* Access to a viable exit strategy is essential for every institution and should be a permissible component of a business plan. The business plan should merely insure that an institution operates in a safe and sound manner so long as it remains independent.

Alternatives: While the MHC form has improved, it is still too restrictive and not a viable choice for many institutions, especially small institutions.

Return on Equity The proposed regulation provides that as part of its business plan, a converting institution must demonstrate that it can achieve a reasonable return on equity commensurate with the investment risk, investor expectations, and industry norms. The preamble states that "returns should be considered in relation to trends for publicly-traded thrift and bank stocks, broader equity market returns, and the general level of interest rates. At a minimum, the projected return on equity should exceed, by a margin reflecting relative investment risk, the institution's rates on long-term certificates of deposit. The institution should not consider speculative short-term stock price appreciation, or the effects of returns of capital, or repurchases of stock in assessing the reasonableness of projected return on equity, even though these factors may be considered by investors." The proposed regulation also states "You may not project stock repurchases, returns of capital, or extraordinary dividends in any part of a business plan."

We would like to point out several inconsistencies with this requirement. On the same day that the OTS issued this proposed rule, it issued a final rule that removed any restrictions on stock repurchases occurring more than one year following conversion. The proposed rule prohibits projecting stock repurchases in any part of a business plan and would regard a stock repurchase as a material deviation from the business plan which would require prior written approval from the Regional Director. Isn't this a contradiction of the final rule?

If investors consider the possibility of stock repurchases and returns of capital in making their investment decision in a converting thrift, why is it impermissible for a converting thrift to consider the effect of stock repurchases and returns of capital in calculating their projected return on equity in their business plan?

It is not appropriate for a converting thrift to compare its performance and return on equity to publicly traded thrifts or banks, broader equity market returns, or general levels of interest rates. Thrifts which have already undertaken the conversion process are seasoned companies which have had an opportunity to leverage their capital and manage their level of capital (and indirectly their return on equity) through stock repurchases and dividends (both regular and special or extraordinary). In fact, all but the most recently converted public thrifts have no restrictions on their use of these capital management tools. The public thrifts with activist shareholders are primarily those that have not utilized these tools.

Publicly traded banks are seasoned companies. They have always been in the stock form. They can better manage their level of capital. Banks on average are more profitable than thrifts. Their lower levels of capital and higher profits make it possible to generate higher levels of return on equity. Banks are able to utilize the capital management tools of stock repurchases and dividends without the restrictions imposed on converting thrifts.

The broader equity markets are composed of seasoned companies with unfettered access to capital management tools. They have lower levels of capital than recently converted thrifts. A substantial portion of their capital may be in the form of debt that enables them to have a higher return on equity. Further, they are not as interest rate sensitive as thrifts.

It also is not appropriate to compare a converting thrift's return on equity to the general level of interest rates. A lower interest rate environment is the only time this ROE hurdle might be met. However, as interest rates decline, a thrift's margins should improve, which will increase valuations, result in more capital being raised, and hence a lower return on equity.

Based on our experience in over 550 conversions, and serving as a market maker for more than 200 financial institution stocks, we believe that the concern with ROE is overemphasized. While ROE is a factor considered by thrift investors, it is not the only factor. Thrift investors understand that it will be years before a converted thrift will be able to achieve an acceptable ROE. That is the nature of the conversion process. Investors do want to see capital management techniques utilized in the meantime. If management can utilize the capital to support organic growth, or growth through acquisitions, and through that increase profitability, that is acceptable to investors. Otherwise, investors would like to see the capital utilized to repurchase shares or pay dividends. Investors are more concerned with ROI, which includes price appreciation and dividends.

The proposed standard is vague and arbitrary. Rates on long-term certificates of deposit change daily. What is meant by long-term (e.g., one year, two years, five years)? The term "margin" is not defined. Should the margin be 50 basic points, 100 basic points, etc.? If the margin is intended to reflect the investment risk, won't this vary from institution to institution? How will it be computed?

According to Bankrate.com, the average rate paid on a 2-year certificate of deposit on September 26, 2000 was 6.43%. This would impute a hurdle rate in the area of approximately 7.00% to 7.50%. At March 31, 2000 (the most recent date information was available), federal mutual thrifts on average had GAAP capital of 12.07% and a return on average equity of 5.88%. Thus, the average thrift would already fall below the hurdle rate. Raising capital would reduce the return on equity regardless of how little capital is raised. Surely, the OTS did not intend to create an obstacle to conversion, which could not be cleared by the vast majority of mutual thrifts. The result will be to effectively preclude the conversion option to all but a few mutuals.

Costs of Conversion

The preamble states that "The cost of conversion can be significant and often are underestimated...Mutual boards should consider the cost of additional staff to manage quarterly and annual shareholder reporting, the need for additional or more experienced (and more expensive) independent accountant and legal services...The cost of managing shareholder relations, and the cost of ...shareholder meetings."

We could not agree more - we consider it our obligation to point out these issues to management prior to making a decision to go public. However, in our experience, this issue is more relevant for smaller institutions than larger institutions. Since the OTS has expressed this concern, we would like to offer a suggestion. Instead of requiring all converting thrifts to register their stock and keep it registered for a least three years, why not let them deregister sooner (e.g., after one year), provided they qualify to do so? Only the small institutions would be affected and they are the ones most affected by this expense. Investors could find significant information about these institutions and their financial situation through the FDIC's web site.

We are not aware of any other industry that has such a three-year requirement. Since this is not a requirement of the Securities and Exchange Commission, the OTS could easily change the requirements and ease the burden on converting institutions.

MUTUAL HOLDING COMPANIES

The staff has obviously spent considerable effort in devising ways to make MHCs more attractive. The enhanced benefits should be attractive to insiders and the new rule on dividend waivers could prove useful in attracting investors.

Despite these enhancements, the MHC form will continue to have its drawbacks. Of the 424 mutual institutions regulated by the OTS, 239 had assets of less than $100 million. A $100 million asset institution with 12% capital undertaking a full 49% minority offering would issue less than $4.0 million of stock. Smaller and less capitalized thrifts would have even smaller offerings. In every case these stock issues will be highly illiquid and there will be minimal public float. Stock brokerage firms are not likely to have any interest in making a market in highly illiquid stocks such as these. This will make it difficult for investors to buy and sell the stock. The stock will trade infrequently and even small trades could result in large gyrations in the price of the stock. Less than full minority offerings will exacerbate these problems. Unless these stocks pay very large dividends, it will be very difficult to attract investors. Too many investors were burned in illiquid thrift stocks during the recent downturn in the market to make the same mistake again.

MHCs, however, can make sense for large institutions that have the ability to grow organically or through acquisitions, diversify their operations, and have a large enough offering to provide liquidity in their stock. Examples include Fidelity Bankshares, Inc., First Niagara Financial Group, Inc., and Northwest Bancorp Inc.

We are also concerned that granting benefits to officers and directors based on a 49% offering when their institution issues some lesser percentage of shares (e.g., 10% or 20%) could have unintended consequences. One such consequence could be the investing public's negative perception of management and the regulatory agency that allowed benefits, which could be viewed as excessive. In an industry where the public's perception of thrift institutions and their regulator has already been tarnished, could this send the wrong message? Could this action further erode the thrift industry's credibility with investors?

Before we can recommend MHC transactions to our clients, we need to have a better understanding of the parameters within which they must operate and know exactly what is and isn't permissible. We also need to be comfortable that the rules won't be changed in the future to our clients' detriment, and that our clients won't be put in a position where they can not get out of the MHC form.

To this end, we would appreciate clarification of several matters.

1) Are there any limits on how small the minority offering may be and still have benefits based on a 49% offering?
2) In a small minority offering, can the ESOP be assured of getting all of its shares in the offering?
3) Are there any limitations on the payment of dividends (e.g., all of current year's earnings and one-half of the capital surplus) and still waive the receipt of dividends at the MHC? Does it matter how small the minority offering is?
4) Can stock be repurchased without limitations or restrictions after the first year?
5) Can an institution which has a small (e.g., 10%) minority offering, but has benefits based on a 49% offering also get a full set of benefits when it does the second step conversion of the MHC?
6) The proposal states that multiple stock option plans will be allowed so long as the MHC retains majority ownership. Can an institution have a 10% minority offering and have multiple option plans totaling 39%? Will dividend equivalent rights be permissible on these options?
7) Are there any limitations on the ability of the MHC to waive the receipt of dividends?
8) Is an institution forming an MHC with a minority offering required to follow the same business plan requirements as an institution that is converting?
9) Are any deviations from the business plan requirements for conversions allowed for MHCs?
10) Can an MHC sell to a mutual institution or another MHC within three years of its formation?
11) Confirm that an MHC doesn't need to have a plan for deployment of the proceeds as stated in the preamble.
12) Why aren't investors in an MHC entitled to see how management performs prior to being asked to vote on stock benefit plans as they are in a conversion?
13) Will using order forms to vote on benefit plans cause confusion? Could someone be concerned that if they vote no on the benefit plans, they might not get their order filled?
14) Can orders received in a community offering (no subscription rights) be rejected if that person voted against the benefit plans?

15) Can an offering be terminated if the benefit plans are not approved?
16) Is there a limitation on the premium that can be paid to minority shareholders in the event that an MHC is acquired?
17) What type of disclosure will be required about dilution and the effect on voting rights where the benefits are based on a 49% offering? For example, in a 10% offering, the ESOP and restricted stock plans will control 60% of the public shares, and the stock options will equal 50% of the public shares.
18) Will the ESOP order (which in a 10% offering will equal 40% of the shares issued) be allowed to vote on the stock benefit plans such that approval is all but guaranteed? Can the stock award plan place an order in the offering that is contingent upon approval of the plan?

The OTS should not treat investors in MHCs any different from investors in conversions. The benefit plans should be voted on at the same point in time in either scenario, either at the time of the offering or not sooner than six months after the offering. We would actually like to see a reversal to the old rule where the benefit plans were voted on at the time of conversion, and the exercise price of the option is the offering price. This will align managements' interests with the investors' interests from day one. Under the current rule, management actually has a disincentive for the institution and its stock to perform well. If the price of the stock goes up quickly before the options are priced, the value of the option to management decreases and the insider loses their incentive to have the company perform well. Further, we are not aware of any situation in which the benefit plans have not been approved in either a conversion or an MHC.

POLICY REGARDING ACQUISITIONS WITHIN THREE YEARS

Since the discussion of this change in policy is contained in a proposed rule, rather than one of the interim final rules also relating to conversions and MHCs, which were issued on the same day, we assume that it too is a proposed change and is open for comment.

Historically, the OTS' focus in determining whether to allow acquisitions within three years of conversion was based on whether the acquisition was friendly. The objective was to protect an institution from "hostile" acquisitions while it was trying to deploy its offering proceeds on a long-term basis.

We understand that one of the reasons for the change is that there may have been a situation where an acquisition took place before the proceeds were fully deployed and the acquiror didn't fulfill the converted institution's business plan. With the exception of a few isolated instances where an institution entered into a merger agreement of its own volition and subsequently received a competing offer, we are not aware of any recent hostile acquisitions of institutions that were not already in play. Nor are we aware of any situations in which a community was harmed following a friendly acquisition. Virtually all thrifts are acquired by community financial institutions, which by definition are devoted to serving their communities. In most cases, the community benefits by having access to additional products and services the acquired thrift institution did not offer. We are not aware of any situation in which a community was substantially and permanently harmed because an institution was acquired. In today's business environment, there are so many sources of financial services (e.g., banks, thrifts, insurance companies, stock brokerage firms, mortgage bankers, credit unions, internet-based entities, etc.) that no individual institution is vital to a community's well-being. Further, if the effect of an acquisition on a community is a valid regulatory consideration, it would apply to all acquisitions, not just those occurring within three years of conversion.

This change in policy could put boards of directors in a regulatory/fiduciary dilemma. Neither the policy nor the underlying regulation prohibits offers. What action does a board take when it receives an offer within three years of conversion at a price that represents a substantial premium to its market price, and which, in the board's judgement, is superior to the returns the institution can expect to generate as an independent entity? If the board summarily rejects the offer because the three-year period has not expired, is the board in breach of its fiduciary duties? We believe that regulatory policy should not be such that a board could be forced into this position.

We believe that it would be preferable to prohibit only hostile acquisitions and expand the prohibition to include shareholder proposals (as shareholder proposals by their very nature are hostile) for some period of time. This would allow management time to deploy the conversion proceeds as contemplated in their business plan and to consider only deals that are truly friendly.

Based on our experience and conversations with other firms, the biggest problem converting thrifts will encounter is not that they will be acquired, but that they will want to sell and not be able to find buyers.

It should also be noted that changing this policy is extremely unfair to institutions that have already converted, and investors who made investment decisions based on the former policy. Investors have come to the aid of the thrift industry on numerous occasions. The retroactive application of this proposed policy change will harm investors and its prospective application will discourage them from making further investments. Eventually, this will harm the thrift industry and the policy will need to be changed again to attract investors. At some point, investors will cease trusting an industry where the rules constantly change.

OTHER SUGGESTIONS

1) In order to reduce the post-conversion burden and expense of being a public company, the OTS should reduce the mandatory three-year period for registering the stock. The OTS should also reconsider requiring an entire board or even a committee to travel to meet with the Regional Director to discuss their business plan.

2) The OTS should take a much more active role in pursuing persons who violate the prohibition on transferring subscription rights. We would support a provision that allows an institution to void subscription rights in instances where a person gave false information in opening their savings account. In order to curb abuses, the OTS should also consider barring violators from participation in the subscription offering of any institution.

3) Item 7 of Form AC should be deleted or revised as the regulations mandate that the eligibility record date be at least one year prior to the adoption of a plan of conversion. Because of this requirement, it is impossible not to have a supplemental eligibility record date. Further, since the supplemental eligibility record date is within a month of the voting record date for determining "other members," there is not enough difference between the two groups as to warrant different classifications. We suggest eliminating the supplemental eligible account holder category of subscribers.

4) We would support expanding the local depositors' preference provision to include depositors who previously resided in the community, relocated, but maintained an account with the institution.

5) Can preference be given within a category to persons who actually transact business with the institution, as opposed to persons who simply opened an account in order to receive subscription rights?

6) The OTS should consider adding a "social discretion" provision as an option to the federal stock charter. This would allow an institution to consider factors other than price (e.g., the effect on employees, the *community*, etc.) when evaluating a takeover proposal.

7) The OTS should reconsider allowing merger/conversions for very small institutions without constraints that either make them virtually impossible to do or which validate the concept of the community being a stakeholder in a mutual institution.

8) The OTS should clarify the maximum individual purchase limitation. If the lowest the maximum limit can be set is 1%, then remove the references to 1/10 of 1% in eligible and supplemental eligible amount holder formulas.

9) The OTS should consider increasing the minimum purchase limitation from 25 shares/$500 to 100 shares/$1,000.

10) The OTS should clarify the circumstances under which a Community Offering must be held. If a subscription offering closes within the valuation range and the appraiser confirms the valuation, why does there need to be a Community Offering?

OTHER COMMENT AREAS

Should reorganization into MHC or mid-tier form require a vote of the members? The OTS notes that no reorganization has failed to receive membership approval. This is not the issue, as no conversion has failed to receive membership approval and never have the stock benefit plans failed to receive stockholder approval. The issue is whether the members' rights and interests can be affected.

In reorganizations that involve minority offerings, we believe that it is possible for a combination of factors to occur which could adversely affect the members of the MHC. The lack of a requirement for the establishment of a liquidation account, combined with no restriction on the waiver of dividends by the MHC, no restriction on the payment of dividends (other than the capital distribution rule), and other factors, could result, over time, in transferring the capital of the thrift from the MHC stockholder to the minority stockholders. If this is possible, disclosure and membership approval should be required.

CONCLUSION

We appreciate the opportunity to comment on these matters. We ask that whatever final action is taken be designed to preserve the integrity and impartiality of the process and avoid unintended consequences. We also ask that investors not be forgotten in this process. Investors play a key role in the conversion and MHC process and should not be treated unfairly or taken for granted.

No aspect of the proposal should be enforced unless and until it becomes final. The OTS should take its time to address all issues carefully and deliberately rather than rush through the process.

If you have any questions, please contact Charles Sloane at (404) 495-2014.

Very truly yours,

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